

July to Aug—



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 1 जुलाई, 1992/10 आगस्ट, 1914

हिमाचल प्रदेश सरकार

आबकारी एवं कराधान विभाग

अधिसूचना

शिमला-2, 1 जुलाई, 1992

संख्या ई० एक्स० एन०एफ० (21) 1/92.—हिमाचल प्रदेश के राज्यपाल, 1992 के अधिनियम संख्या 8 द्वारा यथा संशोधित हिमाचल प्रदेश विलास वस्तुओं पर कर (होटलों और किराया गृहों में) अधिनियम, 1979 (1979 का 15) की धारा 4 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निदेश देते हैं कि उपरोक्त धारा की उप-धारा (1) के अधीन स्वत्वधारियों द्वारा विलास कर, एक रुपये पर दस पैसे की दर से जुलाई, 1992 के प्रथम दिवस से देय होगा।

आदेश द्वारा,
ए० एन० विद्यार्थी,
वित्तायुक्त एवं सचिव

[Authoritative English text of this Department notification No. EXN-F-(21) 1/92, dated the 1st July, 1992 as required under Article 348 (3) of the Constitution of India].

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-171 002, the 1st July, 1992

No. EXN-F (21) 1/92.—In exercise of the powers conferred by sub-section (2) of Section 4 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979), as amended by Act No. 8 of 1992, the Governor of Himachal Pradesh is pleased to direct that the luxury tax under sub-section (1) of the aforesaid section shall be payable by the proprietor at the rate of ten paise in a rupee with effect from the 1st day of July, 1992.

By order,
A. N. VIDYARTHI,
Financial Commissioner-cum-Secretary.

आवकारी एवं कराधान विभाग

अधिसूचना

शिमला-2, 1 जुलाई, 1992

संख्या ई0 एक्स0 एन0 एफ0 (21) 2/92.—हिमाचल प्रदेश के राज्यपाल, 1992 के अधिनियम की संख्या (1) द्वारा यथा संशोधित, हिमाचल प्रदेश विलास दस्तुओं पर कर (होटलों तथा किराया गृहों में) अधिनियम, 1979 (1979 का 15) की धारा 4 की उप-धारा (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा अधिसूचित करते हैं कि उपरोक्त धारा की उप-धारा (4) के प्रयोजनों के लिये विलास कर की दर जुलाई, 1992 के प्रथम दिवस से एक रुपये पर पांच पैसे होगी।

आदेश द्वारा,
ए0 एन0 विद्यार्थी,
वित्तायुक्त एवं सचिव।

[Authoritative English text of this Department notification No. EXN-F (21) 2/92, dated the 1st July, 1992 as required under Article 348 (3) of the Constitution of India].

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-2, the 1st July, 1992

No. EXN-F (21) 2/92.—In exercise of the powers conferred by sub-section (5) of section 4 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979), as amended by Act No. 8 of 1992, the Governor of Himachal Pradesh is pleased to hereby notify, for the purposes of sub-section (4) of the said section, the rate of luxury tax to be five paise in a rupee, with effect from the 1st July, 1992.

By order,
A. N. VIDYARTHI,
Financial Commissioner-cum-Secretary.

आबकारी एवं कराधान विभाग

अधिसूचना

शिमला-2, 1 जुलाई, 1992

संख्या ई0 एक्स0 एन0 एफ0 (21) 2/92.—हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश टैक्स आन लक्शरीज (इन होटलज एण्ड लॉजिंग हाऊसिज) ऐक्ट, 1979 (1979 का 15) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सरकार की अधिसूचना सं0 ई0 एक्स0 एन0 एफ0 (10)-5/79, तारीख 2 फरवरी, 1980 द्वारा, तारीख 18 मार्च, 1980 के राजपत्र (असाधारण) हिमाचल प्रदेश में प्रकाशित, हिमाचल प्रदेश टैक्स आन लक्शरीज (इन होटलज एण्ड लॉजिंग हाऊसिज) नियम, 1979 (जिन्हें इसमें इसक पश्चात् उक्त नियम कहा गया है), में और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं; अर्थात् :—

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश विलास वस्तुओं पर कर (होटलों और किराया गृहों में) (संशोधन) नियम, 1992 है।

(2) ये 1 जुलाई, 1992 से प्रवृत्त होंगे।

2. Insertion of rule 8-A.—After rule 8 of the said rules, the following rule 8-A, shall be inserted, namely :—

“8-A. Manner of determination and payment of lump-sum luxury tax.—(1) Notwithstanding anything contained in these rules, the proprietor shall pay to the State Government the luxury tax in lump-sum to be determined by the Assessing Authority on the basis of the formula and in the manner hereinafter provided, and after following the procedure specified in sub-rule (2), namely :—

Capacity of a hotel × the rates and the charges fixed for the luxury provided in a hotel × entire period of a financial year × rate of luxury tax.

Explanation.—In this formula,—

- (a) the “capacity of a hotel” means the entire class-wise accommodation for residence available in a hotel;
- (b) “the rates and the charges fixed for the luxury provided in a hotel” mean—
 - (i) those rates and the charges which are fixed by the prescribed authority under the Himachal Pradesh Tourist Trade Act, 1988 ; or
 - (ii) those rates and the charges which are actually payable to the proprietor for the luxury provided in a hotel, in case where the rates and the charges have not been fixed by the prescribed authority under the Himachal Pradesh Tourist Trade Act, 1988 ;
- (c) in order to determine lump-sum luxury tax the period of 365 days (in case of a leap year the period of 366 days) that is, the entire period of a financial year, shall be apportioned into respective units of the period as “season” (from September 16 to June 30) and “off-season” (from July 1st to September 15) for which different rates and the charges, if any, have been fixed or are payable ; and
- (d) the “rate of luxury tax” means the rate notified under sub-section(5) of section 4 of the Act :

Provided that where the lump-sum luxury tax so determined is less than the average amount of luxury tax paid or payable during the last three years or the actual of the previous year

immediately preceding the year for which lump-sum luxury tax is being determined, the luxury tax payable shall be the said average amount of luxury tax or the said actual, whichever is higher :

Provided further that where the rates of luxury tax and the rates and the charges for the luxury provided in a hotel are increased at any time during the year for which the lump-sum luxury tax is determined, for the purpose of the first proviso the average amount of luxury tax paid or payable during the last three years or actuals of the previous year immediately preceding the year for which luxury tax is being determined shall be deemed to be the amount which would have been, had the said increase in the rate of luxury tax and the rates and the charges would have been taken into account while calculating the said average amount or actual of luxury tax :

Provided further that where the proprietor has been unable to run his hotel due to any unforeseeable reasons namely, the death of the sole proprietor, dissolution of a partnership, cessation of business of running the hotel, and the like and the Assessing Authority finds the precluding circumstances as true and correct, no luxury tax shall be leviable for the period for which the business of running the hotel remained closed and the luxury tax for the period of such closure of the business shall be deductible from the aggregate luxury tax liability determined under this rule in respect of the hotel, subject to the condition that satisfactory evidence of such closure is brought on record :

Provided further that where the proprietor has been unable to run his hotel for complete month, for any reasons other than those mentioned in the preceding proviso, and furnishes an advance information to the Assessing Authority intimating his intention of not running the hotel, no luxury tax shall be leviable for the said month subject to the condition that the Assessing Authority issues to the proprietor a certificate to the effect that the advance information was duly received in his office and he has personally verified the facts and found them true and correct :

Provided further that no deduction under the preceding proviso shall be allowed for a period of less than one month.

(2) The Assessing Authority shall follow the following procedure for determining lump-sum luxury tax under sub-rule (1) :—

- (a) the amount of deductions to be allowed in pursuance of the provisions contained in the third and the fourth provisos to sub-rule (1) shall be determined by the Assessing Authority at the close of every half-financial-year for which assessment is made under section 7 of the Act ;
- (b) before determining the amount of tax in lump-sum under sub-rule (1), the Assessing Authority shall afford an opportunity of being heard to the proprietor by serving on him a notice in Form 'V-A' ordinarily in the first fortnight of January in each financial year, requiring him on a date and place to be indicated therein either to attend in person or to produce or cause to be produced any evidence which such proprietor may wish to produce ;
- (c) on the day specified in the notice or as soon as after-wards the Assessing Authority shall, after considering such other evidence as it may require on specific points, ordinarily determine the lump-sum luxury tax,—

(i) for the period from 1-7-1992 to 31-3-1993 before 25th July, 1992 and shall issue a notice of demand in Form 'VII-A' ;

(ii) for the financial years from 1993-94 onwards, before the close of February each year and the Assessing Authority shall issue a notice of demand in Form 'VII-A' ; and

- (d) notwithstanding anything contained hereinbefore where the rate of luxury tax under sub-section(5) of section 4 of the Act or the rates and the charges for the luxury provided in a hotel are changed by the Government or by the prescribed authority respectively or in other cases by the proprietor, the amount of lump-sum luxury tax shall be re-determined in accordance with the provisions of sub-rule (1) and notice of demand in Form 'VII-A' shall be re-issued accordingly.
- (e) The lump-sum amount of luxury tax determined under sub-rule (1) for the entire period of a financial year or part thereof, shall be split up into equal monthly instalments as the case may be, and each instalment shall be payable in cash by the proprietor in the Government treasury on or before the eighth day after the close of the month to which the instalment relates, and the proprietor shall furnish to the Assessing Authority a return in Form 'V-B' on or before the 15th day after the close of each quarter to which the return relates."

3. **Insertion of Forms 'V-A' and 'V-B'.—**After Form 'V' appended to the said rules, the following Forms 'V-A' and 'V-B' shall be inserted, namely :—

"FORM 'V-A'

[See rule 8-A (2)(b) of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Rules, 1979]

Office of the Assessing Authority

.....District

No.....Dated

.....

.....

.....

Whereas—

You, a proprietor un-registered/registered under certificate No.....ofDistrict, are liable to pay luxury tax under sub-section (4) of section 4 of the Act and it appears to me to be necessary to determine and assess the luxury tax under rule 8-A.

2. You are hereby directed to attend in person or by an agent, duly authorised in this behalf, at.....(place).....on (date).....at (time)and there to produce or cause to be produced at the said time and place the documents specified below or any evidence you may wish to produce for the purposes of such determination and assessment.

3. In the event of your failure to comply with this notice, I shall proceed to determine and assess the amount of luxury tax due without any further reference to you.

Seal.

Dated.....

Signature of the Assessing Authority,

.....*District.*

List of documents:

.....

.....

FORM 'V-B'

[See rule 8-A(3) of the Himachal Pradesh Tax on Luxuries in Hotels and Lodging Houses) Rules, 1979]

RETURN

1. Name of the proprietor.....
2. Registration No.....
3. Quarter and year to which the return relates.....
4. Total amount of luxury tax determined under rule 8-A.....
5. Amount of monthly instalments payable.....
6. Number of Treasury receipt with date, vide which luxury tax was deposited.....
7. Total amount of luxury tax determined and assessed under rule 8-A.....
8. Remarks.....

Place.....

Signature of the proprietor.

Dated.....

4. **Insertion of Form 'VII-A'.—**After Form VII appended to the said rules, the following Form 'VII-A' shall be inserted, namely:—

"FORM 'VII-A'

[See rule 8-A(2)(c) of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Rules, 1979]

NOTICE OF DEMAND

Office of the Assessing Authority
.....*district.*

No.....Dated.....

To

.....

.....

You are hereby informed that the amount of luxury tax and penalty for the period.....
.....payable by you has been determined and assessed as under:—

A. Luxury tax determined and assessed	Rs.....
B. Penalty imposed	Rs.
C. Total of A and B	Rs.....
D. Net amount due	Rs.

2. You are hereby directed to pay the sum of Rs.....(in figures)
Rupees.....(in words) into

Treasury
Sub-Treasury
State Bank of India

at.....(place), in the monthly instalments and on the date(s)
specified in paragraph 3 of this notice and furnish the receipts in proof of payment to this office
every month on or before the 10th day after the close of the month to which the payment relates
failing which the sum unpaid will be recoverable from you as arrears of land revenue.

3. You are further directed to pay the aforesaid amount determined and assessed under
rule 8-A in.....equal monthly instalments, namely:—

Month of instalment	Amount
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and pay each instalment in cash accordingly on or before the 8th day after the close of the month
to which the instalment relates.

4. A challan in Form-I is enclosed for the purposes.

Seal.

Dated.....

Signature.....

(Assessing Authority)

.....District.

Note.—Words which are in-applicable be struck off.

आदेश द्वारा
अमर नाथ बिद्यार्थी
वित्तियुक्त एवं सचिव
हिमाचल प्रदेश, शिमला-2

[Authoritative English text of this Department Notification No. EXN-F(21)2/92, dated the
1st July, 1992, as required under clause (3) of Article 348 of the Constitution of India]

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-2, the 1st July, 1992

No. EXN-F(21)2/92.—In exercise of the powers conferred under section 17 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979),

the Governor of Himachal Pradesh is pleased to make the following rules further to amend the Himachal Pradesh Tax on luxuries (in Hotels and Lodging Houses) Rules, 1979 (hereinafter called the 'said rules') published in Rajpatra, Himachal Pradesh, Extraordinary, dated the 18th March, 1980 *vide* Government Notification No. EXN-F(10)-5/79, dated the 2nd February, 1989, namely:—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) (Amendment) Rules, 1992.

(2) These shall come into force with effect from 1st day of July, 1992.

2. Insertion of rule 8-A.—After rule 8 of the said rules, the following rule 8-A shall be inserted namely:—

“8-A. Manner of determination and payment of lump-sum luxury tax.—(1) Notwithstanding anything contained in these rules, the proprietor shall pay to the State Government the luxury tax in lump-sum to be determined by the Assessing Authority on the basis of the formula and in the manner hereinafter provided, and after following the procedure specified in sub-rule (2), namely:

$\text{Capacity of a hotel} \times \text{the rates and the charges fixed for the luxury provided in a hotel} \times \text{entire period of a financial year} \times \text{rate of luxury tax.}$

Explanation.—In this formula,—

(a) the “capacity of a hotel” means the entire class-wise accommodation for residence available in a hotel;

(b) “the rates and the charges fixed for the luxury provided in a hotel” mean—

(i) those rates and the charges which are fixed by the prescribed authority under the Himachal Pradesh Tourist Trade Act, 1988; or

(ii) those rates and the charges which are actually payable to the proprietor for the luxury provided in a hotel, in case where the rates and the charges have not been fixed by the prescribed authority under the Himachal Pradesh Tourist Trade Act, 1988;

(c) in order to determine lump-sum luxury tax the period of 365 days (in case of a leap year the period of 366 days) that is, the entire period of a financial year, shall be apportioned into respective units of the period as “season” (from September 16 to June, 30) and “off-season” (from July 1st to September 15) for which different rates and the charges, if any, have been fixed or are payable; and

(d) the “rate of luxury tax” means the rates notified under sub-section (5) of section 4 of the Act:

Provided that where the lump-sum luxury tax so determined is less than the average amount of luxury tax paid or payable during the last three years or the actual of the previous year immediately preceding the year for which lump-sum luxury tax is being determined, the luxury tax payable shall be the said average amount of luxury tax or the said actual, whichever is higher:

Provided further that where the rates of luxury tax and the rates and the charges for the luxury provided in a hotel are increased at any time during the year for which the lump-sum luxury tax is determined, for the purpose of the first proviso the average amount of luxury tax paid or payable during the last three years or actuals of the previous year immediately preceding the year for which luxury tax is being determined shall be deemed to be the amount which would

have been, had the said increase in the rate of luxury tax and the rates and the charges would have been taken into account while calculating the said average amount or actual of luxury tax.

Provided further that where the proprietor has been unable to run his hotel due to any unforeseen reason namely, the death of the sole proprietor, dissolution of a partnership, cessation of business of running the hotel, and the like and the Assessing Authority finds the precluding circumstances as true and correct, no luxury tax shall be leviable for the period for which the business of running the hotel remained closed and the luxury tax for the period of such closure of the business shall be deductible from the aggregate luxury tax liability determined under this rule in respect of the hotel, subject to the condition that satisfactory evidence of such closure is brought on record:

Provided further that where the proprietor has been unable to run his hotel for complete month, for any reasons other than those mentioned in the preceding proviso, and furnishes an advance information to the Assessing Authority intimating his intention of not running the hotel, no luxury tax shall be leviable for the said month subject to the condition that the Assessing Authority issues to the proprietor a certificate to the effect that the advance information was duly received in his office and he has personally verified the facts and found them true and correct:

Provided further that no deduction under the preceding proviso shall be allowed for a period of less than one month.

(2) The Assessing authority shall follow the following procedure for determining lump-sum luxury tax under sub-rule (1):—

(a) the amount of deductions to be allowed in pursuance of the provisions contained in the third and the fourth provisos to sub-rule (1) shall be determined by the Assessing Authority at the close of every half-financial-year for which assessment is made under section 7 of the Act;

(b) before determining the amount of tax in lump-sum under sub-rule (1), the Assessing Authority shall afford an opportunity of being heard to the proprietor by serving on him a notice in Form 'V-A' ordinarily in the first fortnight of January in each financial year, requiring him on a date and place to be indicated therein either to attend in person or to produce or cause to be produced any evidence which such proprietor may wish to produce;

(c) on the day specified in the notice or as soon as after wards the Assessing Authority shall, after considering such other evidence as it may require on specific points, ordinarily determine the lump-sum luxury tax,—

(i) for the period from 1-7-1992 to 31-3-1993 before 25th July, 1992 and shall issue a notice of demand in Form 'VII-A';

(ii) for the financial years from 1993-94 onwards, before the close of February each year and the Assessing Authority shall issue a notice of demand in Form 'VII-A'; and

(d) notwithstanding anything contained hereinbefore where the rate of luxury tax under sub-section (5) of section 4 of the Act or the rates and the charges for the luxury provided in a hotel are changed by the Government or by the prescribed authority respectively or in other cases by the proprietor, the amount of lump-sum luxury tax shall be re-determined in accordance with the provisions of sub-rule (1) and notice of demand in Form 'VII-A' shall be re-issued accordingly.

(3) The lump-sum amount of luxury tax determined under sub-rule (1) for the entire period of a financial year or part thereof, shall be split up into equal monthly instalments as the case may be, and each instalment shall be payable in cash by the proprietor in the Government treasury on or before the eighth day after the close of the month to which the instalment relates, and the proprietor shall furnish to the Assessing Authority a return in Form 'V-B' on or before the 15th day after the close of each quarter to which the return relates."

3. **Insertion of Forms 'V-A' and 'V-B'.—**after Form 'V' appended to the said rules, the following Forms 'V-A' and 'V-B' shall be inserted, namely:—

"FORM 'V-A'

[See rule 8, A(2)(b) of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Rules, 1979]

Office of the Assessing Authority,
.....District.

No.dated.....

To

.....
.....
.....

Whereas—

You, a proprietor un-registered/registered under certificate No.....of..... District, are liable to pay luxury tax under sub-section (4) of section 4 of the Act and it appears to me to be necessary to determine and assess the luxury tax under rule 8-A.

2. You are hereby directed to attend in person or by an agent, duly authorised in this behalf, at.....(place)on (date)..... at (time).....and thereto produce or cause to be produced at the said time and place the documents specified below or any evidence you may wish to produce for the purposes of such determination and assessment.

3. In the event of your failure to comply with this notice, I shall proceed to determine and assess the amount of luxury tax due without any further reference to you.

Seal.

Dated.....

Signature of the Assessing Authority

.....District.

List of documents :

.....
.....

Form—V-B'

[See rule 8-A(3) of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Rules, 1979]

RETURN

1. Name of the proprietor.....
2. Registration No.....
3. Quarter and year to which the return relates.....
4. Total amount of luxury tax determined under rule 8-A.....
5. Amount of monthly instalments payable.....
6. Number of Treasury receipt with date vide which luxury tax was deposited.....
7. Total amount of luxury tax determined and assessed under rule 8-A.....
8. Remarks.....

Place.....

Signature of the proprietor."

Dated.....

4. Insertion of Form 4 VII-A.—After Form VII appended to the said rules, the following Form—'VII-A' shall be inserted, namely:—

V. Form 'VII—A'

[See rule 8-A(2)(c) of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Rules, 1979].

NOTICE OF DEMAND

Office of the Assessing Authority,

.....District.

No.....Dated.....

To

.....

.....

You are hereby informed that the amount of luxury tax and penalty for the period payable by you has been determined and assessed as under:—

A. Luxury tax determined and assessed	Rs.....
B. Penalty imposed	Rs.....
C. Total of A and B	Rs.
D. Net amount due	Rs.....

2. You are hereby directed to pay the sum of Rs.....(in figures)
Rupces.....(in words) into

Treasury

Sub-Treasury

.. State Bank of India

at.....(Place), in the monthly instalments and on the date(s) specified in paragraph 3 of this notice and furnish the receipts in proof of payment to this office every month on or before the 10th day after the close of the month to which the payment relates failing which the sum unpaid will be recoverable from you as arrears of land revenue.

3. You are further directed to pay the aforesaid amount determined and assessed under rules 8-A in..... equal monthly instalments, namely:—

Month of instalment

Amount

and pay each instalment in cash accordingly on or before the 8th day after the close of the month to which the instalment relates.

4. A challan in Form I is enclosed for the purpose.

(Seal).

Dated.....

Signature.....

Assessing Authority,

..... District

Note.—Words which are inapplicable be struck off. ”.

By order,

A. N. VIDYARTHI,

Financial Commissioner-cum-Secretary.